

<p style="text-align: right;">Page 98</p> <p>1 Q. He being?</p> <p>2 A. Whoever the consultant was. And said, "As of</p> <p>3 tomorrow you are no longer needed here, so pack up and</p> <p>4 get out."</p> <p>5 Q. Ceremoniously, okay. And I assume that's then</p> <p>6 what happened?</p> <p>7 A. Yes.</p> <p>8 Q. And if I understand your testimony earlier,</p> <p>9 you filed a claim for the amounts due under your</p> <p>10 employment agreement, correct?</p> <p>11 A. For the time that I had already worked, yes.</p> <p>12 Q. I'm sorry. From the time you already had</p> <p>13 worked that you hadn't been paid for?</p> <p>14 A. Correct.</p> <p>15 Q. And that was in the AHERF bankruptcy?</p> <p>16 A. Correct.</p> <p>17 Q. And you believe you received a check sometime</p> <p>18 last year as payment for that claim?</p> <p>19 A. Correct.</p> <p>20 Q. Do you recall what the amount of the payment</p> <p>21 was?</p> <p>22 A. 120,000, something in that range.</p> <p>23 Q. Was that the amount that you had claimed as</p> <p>24 well or did you claim something more?</p> <p>25 A. I think that was close to the amount that I</p>	<p style="text-align: right;">Page 100</p> <p>1 A. I don't recall.</p> <p>2 Q. Did you more often than not attend those</p> <p>3 Centennial board meetings to which you were invited?</p> <p>4 MS. ZACH: Objection.</p> <p>5 A. If I was invited, I attended.</p> <p>6 BY MS. MEADEN:</p> <p>7 Q. What about the AHERF board meetings, did you</p> <p>8 always attend the meetings to which you were invited?</p> <p>9 A. Yes.</p> <p>10 Q. Was it your understanding you were invited for</p> <p>11 a particular purpose when you were invited to the AHERF</p> <p>12 board of trustee meetings?</p> <p>13 A. It was usually to report on the Graduate</p> <p>14 hospitals.</p> <p>15 Q. All of the Graduate hospitals or only those</p> <p>16 for which you were responsible?</p> <p>17 A. Sometimes all of those, even though I wasn't</p> <p>18 responsible for them.</p> <p>19 Q. Somewhat of a fluid situation then?</p> <p>20 MS. ZACH: Objection.</p> <p>21 A. Yes.</p> <p>22 BY MS. MEADEN:</p> <p>23 Q. If I understand your testimony correctly, your</p> <p>24 responsibilities and the hospitals for which you were</p> <p>25 responsible seem to change during that two-year period</p>
<p style="text-align: right;">Page 99</p> <p>1 claimed.</p> <p>2 Q. Did you have legal representation?</p> <p>3 A. Yes.</p> <p>4 Q. Who was representing you in that, processing</p> <p>5 that claim?</p> <p>6 A. It was a lawyer in the Mescrov firm in</p> <p>7 Philadelphia. M-E-S-C-R-O-V.</p> <p>8 Q. Do you recall the name of the lawyer?</p> <p>9 A. No.</p> <p>10 Q. Getting back to the board meetings that you</p> <p>11 attended during the time of October of 1996 to September</p> <p>12 of 1998, I think you told me you attended -- you were</p> <p>13 invited to Centennial board meetings?</p> <p>14 A. Correct.</p> <p>15 Q. And to AHERF board of trustee meeting,</p> <p>16 correct?</p> <p>17 A. Correct. I don't know if I was invited to all</p> <p>18 of them, but I was invited to a number of them.</p> <p>19 Q. Do you know if you were invited to all of the</p> <p>20 Centennial board meetings?</p> <p>21 A. I believe I was.</p> <p>22 Q. How often did that board meet during that</p> <p>23 time? Do you recall?</p> <p>24 A. Not very often.</p> <p>25 Q. Two or three times a year?</p>	<p style="text-align: right;">Page 101</p> <p>1 that you were employed by AHERF, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Was it your view that the changes and the</p> <p>4 frequency in the changes in your responsibilities was</p> <p>5 something that was well thought out?</p> <p>6 MS. ZACH: Objection.</p> <p>7 A. I think it probably was.</p> <p>8 BY MS. MEADEN:</p> <p>9 Q. Who was making those decisions, as you</p> <p>10 understood it, as to what your responsibilities would be</p> <p>11 or the hospitals for which you would be responsible for</p> <p>12 over a given period of time?</p> <p>13 A. I think it was coming from Sheriff's office.</p> <p>14 Q. Would he be the one who would be conveying the</p> <p>15 information regarding how your responsibilities were</p> <p>16 changing?</p> <p>17 A. No, Dr. Kaye would.</p> <p>18 Q. I want to ask you about a couple of other</p> <p>19 hospitals that you have mentioned earlier. One is</p> <p>20 Rolling Hills. Was that known by any other name?</p> <p>21 A. Elkins, E-L-K-I-N-S, Park.</p> <p>22 Q. And the Warminster Hospital, was that also</p> <p>23 known as the Bucks County Hospital?</p> <p>24 A. Yes.</p> <p>25 Q. Do you recall when or do you have any</p>

<p style="text-align: right;">Page 102</p> <p>1 knowledge of when the discussions between Graduate 2 Health System and AHERF started over a possible 3 acquisition?</p> <p>4 A. No, I wouldn't. I think it was sometime near 5 the end of '95 or part of '96.</p> <p>6 Q. And if I understand your testimony earlier, 7 you were not involved in those discussions with AHERF 8 people?</p> <p>9 A. Correct.</p> <p>10 Q. Who from Graduate Health Systems was primarily 11 involved in those discussions?</p> <p>12 A. I think mostly the board.</p> <p>13 Q. When you say the --</p> <p>14 A. The Graduate Health System board. Bernie 15 Korman for the most part. K-O-R-M-A-N.</p> <p>16 Q. Did you have any understanding as to who he 17 was dealing with at AHERF in these discussions?</p> <p>18 A. Yes.</p> <p>19 Q. And who was that?</p> <p>20 A. It was Sherif Abdelhak and David McConnell and 21 Nancy Wynstera, W-Y-N-S-T-E-R-A.</p> <p>22 Q. And would Mr. Korman report regularly to the 23 Graduate Health System board, to your knowledge, about 24 the progress of those discussions?</p> <p>25 A. As far as I recall, I think he did, yes.</p>	<p style="text-align: right;">Page 104</p> <p>1 best interest of the hospitals and the doctors and 2 employees to do it. They thought AHERF would make the 3 hospitals more substantial, put capital into the 4 hospitals, and they will all be better off than they 5 were without AHERF.</p> <p>6 BY MS. MEADEN:</p> <p>7 Q. Did you have any understanding or was any 8 information conveyed to you regarding AHERF's purported 9 financial condition at that time?</p> <p>10 A. The only thing I recall was, quote, the 11 billions of dollars they had available.</p> <p>12 Q. Billions with a B?</p> <p>13 A. Yes. Billions with a B, on their balance 14 sheet.</p> <p>15 Q. Did you see or do you know if any of the other 16 board members saw financial statements from AHERF prior 17 to agreeing to a deal?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recall specifically what financial 20 statements from AHERF you would have seen?</p> <p>21 A. No.</p> <p>22 Q. Would it have been audited financial 23 statements?</p> <p>24 MS. ZACH: Objection.</p> <p>25 A. I would think that it was.</p>
<p style="text-align: right;">Page 103</p> <p>1 Q. And do you recall when -- I assume at some 2 point Mr. Korman notified the Graduate Health System 3 board that the discussions had progressed to the point 4 where there was discussion of a possible acquisition and 5 a deal was likely to be done, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Do you recall when Mr. Korman advised the 8 board of such event?</p> <p>9 A. No, I don't.</p> <p>10 Q. Do you believe it was several months before 11 October 1996?</p> <p>12 A. Yes.</p> <p>13 Q. Did you have any understanding prior to 14 October of 1996 why AHERF was interested in Graduate 15 hospitals?</p> <p>16 MS. ZACH: Objection.</p> <p>17 A. My understanding was they wanted to build up a 18 volume of hospitals and then regions so they can better 19 negotiate with the insurance companies there.</p> <p>20 BY MS. MEADEN:</p> <p>21 Q. Did you have any understanding as to why 22 Graduate Health Systems would be interested in a 23 possible transaction with AHERF at that time?</p> <p>24 MS. ZACH: Objection. Asked and answered.</p> <p>25 A. I think all of us believed that it was in the</p>	<p style="text-align: right;">Page 105</p> <p>1 BY MS. MEADEN:</p> <p>2 Q. Do you believe it was audited financial 3 statements for the completed fiscal year immediately 4 before the transaction occurred?</p> <p>5 MS. ZACH: Objection.</p> <p>6 A. I don't know, but I would think that it was.</p> <p>7 BY MS. MEADEN:</p> <p>8 Q. Was it your understanding that these billions 9 of dollars that were available as reflected on AHERF 10 balance sheet was something that the board of Graduate 11 Health Systems found very persuasive in deciding to go 12 forward with the deal with AHERF?</p> <p>13 A. I think it helped.</p> <p>14 MS. ZACH: Objection.</p> <p>15 BY MS. MEADEN:</p> <p>16 Q. Do you recall whether there were specific 17 representations made by AHERF as to the amount of 18 capital they were willing to put into the Graduate 19 hospitals?</p> <p>20 MS. ZACH: Objection.</p> <p>21 A. I don't recall that.</p> <p>22 BY MS. MEADEN:</p> <p>23 Q. Well, did you have an understanding that AHERF 24 was going to make capital improvements to the hospitals?</p> <p>25 A. Yes.</p>

1 Q. And where is it that you got that
 2 understanding?
 3 A. Just from discussions with principals there.
 4 Q. Principals at AHERF?
 5 A. Yes.
 6 Q. Specifically, do you recall who?
 7 A. Abdelhak, McConnell.
 8 Q. After the acquisition, did you see significant
 9 improvements, capital improvements, in the Graduate
 10 hospitals?
 11 A. Not that I'm aware of.
 12 Q. Did you ever have any understanding as to why
 13 those capital improvements weren't made?
 14 A. I just think it was all a matter of timing.
 15 They did use capital to purchase or entice physicians to
 16 come to Graduate Hospital. So there were dollars spent
 17 from that aspect.
 18 Q. That would have been as far as salaries for
 19 those doctors, correct?
 20 A. No. They enticed a significant orthopedic
 21 practice to come there, and I guess they paid them some
 22 sort of stipend, significant stipend, to attract them
 23 there.
 24 Q. But that would have been money that would have
 25 gone to salaries or stipends as opposed to money that

1 VIDEOGRAPHER: We have about three minutes
 2 left on this tape. Going off the video record at 12:07
 3 p.m.
 4 (Discussion off the record)
 5 VIDEOGRAPHER: Back on the video record at
 6 12:09 p.m.
 7 BY MS. MEADEN:
 8 Q. Mr. Mathews, was the level of AHERF investment
 9 in the Graduate hospitals after the acquisition the
 10 level that you had anticipated prior to the acquisition?
 11 A. I think so.
 12 Q. Do you have any knowledge as to what the level
 13 of debt that the Graduate hospitals was in the October
 14 1996 time period?
 15 A. I remember 135,000 for Graduate and Mount
 16 Sinai combined.
 17 Q. 135,000 --
 18 A. Million. Million.
 19 Q. For Graduate and Mount Sinai?
 20 A. And Mount Sinai.
 21 Q. When you say Graduate, you mean the Graduate
 22 Hospital?
 23 A. Right.
 24 Q. What about the other hospitals?
 25 A. I don't recall the debt on those hospitals.

1 was put into improving the facilities at the Graduate
 2 hospitals, correct?
 3 MS. ZACH: Objection.
 4 A. That's correct, but the Graduate Hospital got
 5 the benefit of all those patients that came in the
 6 practice.
 7 BY MS. MEADEN:
 8 Q. But you had said earlier that it was at least
 9 your understanding that there would be significant
 10 monies put into capital improvements at the hospitals.
 11 Were you thinking of infrastructure when you made that
 12 statement?
 13 MS. ZACH: Objection.
 14 A. I'm sorry. There were. It was based on the
 15 capital budgets that were produced each year. So if the
 16 hospital produced the capital budget, usually AHERF
 17 followed along and provided those equipment needs at the
 18 hospitals. So there weren't any specific
 19 structural-type, building-type things that were done.
 20 These were mostly equipment.
 21 BY MS. MEADEN:
 22 Q. Well, were the Graduate hospitals in need of
 23 structural or building changes prior to the acquisition?
 24 A. The only one that was really in need, I guess,
 25 would be Rancocas.

1 Q. Do you know if it was greater than or lesser
 2 than the 135 --
 3 A. Lesser, I would think.
 4 Q. In total for the other hospitals or each
 5 individual hospital?
 6 A. I don't recall.
 7 Q. And do you have any understanding as to the
 8 total amount of debt that the AHERF system ultimately
 9 ended up assuming as a result of the Graduate Hospital's
 10 acquisition?
 11 A. I don't recall.
 12 Q. Let me ask you this: Do you know if the AHERF
 13 system did in fact assume the debt of the Graduate
 14 hospitals as a result of the AHERF --
 15 A. That was my understanding.
 16 Q. Do you know if they assumed -- they being
 17 AHERF, assumed all of the debt of the Graduate hospitals
 18 as a result of the acquisition?
 19 A. Again, that's what I thought.
 20 Q. Was it your understanding that Graduate Health
 21 System was going to transfer certain funds over a
 22 three-year period of time to the Graduate Hospital as
 23 part of this transaction with AHERF?
 24 A. Yes.
 25 Q. What was your understanding as to the amount

1 A. No.
 2 Q. Did you talk to anyone from Miss Zach's law
 3 firm of Cravath, Swaine & Moore other than someone to
 4 discuss the scheduling of your deposition? Did you meet
 5 or talk with anyone from that law firm?

6 A. No.
 7 Q. Did you meet or talk to anyone from
 8 PricewaterhouseCoopers prior to this deposition?

9 A. No.
 10 Q. Did you review any documents in preparing for
 11 this deposition?

12 A. No.
 13 Q. And you were shown hundreds of pages of
 14 documents earlier today, very voluminous exhibits, and
 15 you were asked specific questions about select portions
 16 of those documents, correct?

17 MS. ZACH: Objection.

18 A. Correct.

19 BY MS. MEADEN:

20 Q. And you certainly didn't have the time or
 21 probably the wherewithal to read through all of the
 22 pages that were contained in those exhibits, correct?

23 A. Correct.

24 Q. So, it is possible that there may be
 25 information contained within those exhibits that, had

1 Q. Do you have any involvement with the Graduate
 2 Health System today?
 3 A. No. Oh, other than I get a pension from the
 4 Graduate Health System.

5 Q. But you are not a member of the Graduate
 6 Health System board or anything like that, correct?
 7 A. Actually, there is no Graduate Health System
 8 anymore anyway.

9 Q. I apologize. You are right. There was a
 10 successor foundation set up now known as the
 11 Philadelphia Health Care --

12 A. Health Trust.

13 Q. Health Trust.

14 MS. MEADEN: I don't believe I have any more
 15 questions, but Miss Zach may.

16 REDIRECT EXAMINATION

17 BY MS. ZACH:

18 Q. You stated a couple times, I believe, that you
 19 weren't given access to certain documents while you were
 20 president of Centennial. Do you recall making that
 21 statement?

22 A. Yes.

23 Q. Let me first ask you whether you ever
 24 requested any documents regarding any of the hospitals
 25 within AHERF system that you were refused?

1 you read it, would have changed some of the answers you
 2 gave here today, correct?

3 MS. ZACH: Objection.

4 A. I doubt it.

5 BY MS. MEADEN:

6 Q. But you certainly didn't read all the pages in
 7 those documents?

8 A. I did not. That's correct.

9 Q. Couple more questions. On the Vanguard
 10 transaction that we had talked about earlier, do you
 11 have any understanding as to why Vanguard didn't
 12 ultimately consummate a deal with AHERF?

13 A. My only understanding was that financials
 14 were -- at the time they were looking at completing the
 15 transaction -- much worse than were projected, and that
 16 Tenet was willing to step up and pay the dollars or take
 17 responsibilities that Vanguard wasn't.

18 Q. Did you ever have any discussions specifically
 19 with anyone from Vanguard as to why they weren't going
 20 to consummate the transaction?

21 A. Exactly what I just told you.

22 Q. I'm trying to find out from whom did you get
 23 that understanding.

24 A. I think it was Galloway or Hough. Probably
 25 both of them.

1 A. No.

2 Q. So, when you say that you weren't given access
 3 to documents, you were meaning that you were not
 4 voluntarily being given certain documents relating to
 5 hospitals that were not within Centennial?

6 A. Correct.

7 MS. MEADEN: Objection.

8 BY MS. ZACH:

9 Q. Do you have any reason to believe that you
 10 would have been refused such documents had you requested
 11 them?

12 A. No.

13 Q. You had a brief discussion with Miss Meaden
 14 regarding possible representations that had been made
 15 about AHERF during negotiations for the acquisition of
 16 the Graduate hospitals. Do you recall that discussion?

17 A. Yes.

18 Q. Is it fair to say that you have no degree of
 19 certainty regarding what information had passed between
 20 AHERF and Graduate Health System regarding the
 21 acquisition of the hospitals?

22 A. That's correct.

23 Q. And you don't know with any certainty whether
 24 Graduate Health System had received any audited
 25 financial statements for AHERF or any of AHERF

1 hospitals?
 2 MS. MEADEN: Objection.
 3 A. I don't know with certainty. I thought we had
 4 seen audited statements.
 5 BY MS. ZACH:
 6 Q. You believe you had seen them?
 7 A. Yes.
 8 Q. You also discussed briefly the allocation of
 9 corporate overhead to the various AHERF hospitals. Do
 10 you recall that?
 11 A. Yes.
 12 Q. And you said that you did have certain issues
 13 regarding how corporate allocations had been determined
 14 for the Centennial hospitals for which you were
 15 responsible?
 16 A. Well, I don't know if it was just Centennial
 17 hospitals. I have had issues with that over the years
 18 working with hospitals with allocations coming down, so
 19 I just -- they were there. I'm used to just accepting
 20 corporate allocations. It doesn't do you any good to
 21 argue about them, so that's the only reason I said that.
 22 Q. And that was my question. Was there anything
 23 about corporate allocations under the AHERF system that
 24 caused you greater concern than you had seen through
 25 your work with other healthcare systems?

1 A. No.
 2 MS. ZACH: I believe that's all I have.
 3 RECROSS EXAMINATION
 4 BY MS. MEADEN:
 5 Q. I do want to follow up on a couple things.
 6 You talked about the documents that you hadn't seen,
 7 hadn't seen all documents I think is what you said. I'm
 8 a little confused about what you meant by that.
 9 A. I just said that because through discussions I
 10 heard about things that happened that were going on, I
 11 had just never seen any documents to back up what those
 12 discussions were. Not that I should have seen them. I
 13 just --
 14 Q. Were those things that were going on within
 15 the Centennial hospitals or within the AHERF system as a
 16 whole or both?
 17 A. As a whole. Anything involving Centennial I
 18 usually had access or I got without any trouble.
 19 Q. Do you believe you had access to -- full
 20 access to all financial information related to
 21 Centennial hospitals?
 22 A. Yes.
 23 MS. ZACH: Objection.
 24 BY MS. MEADEN:
 25 Q. And from whom would you get financial

1 information for the Centennial hospitals?
 2 A. Either from the hospitals themselves or from
 3 McConnell or Morrison.
 4 Q. Did you deal directly with Mr. McConnell on
 5 financial information for the Centennial hospitals?
 6 A. Once in a while. Not routinely.
 7 Q. Would that be because of the nature of the
 8 information that you were seeking, you'd go straight to
 9 McConnell?
 10 A. If I had a question about the financials that
 11 the CFO at the hospital couldn't answer, I would go to
 12 him and find out what the answer was.
 13 Q. And did you -- were you satisfied with the
 14 answers that you received from Mr. McConnell in response
 15 to your questions?
 16 A. Yes. Yes.
 17 MS. MEADEN: Nothing further.
 18 MS. ZACH: Nothing.
 19 VIDEOGRAPHER: That concludes today's
 20 deposition. The time on the monitor is 12:51 p.m. We
 21 are now off the record.
 22 MS. MEADEN: The court reporter should forward
 23 the transcript to Mr. Mathews.
 24 You will get 30 days from the receipt of the
 25 transcript to fill out an errata sheet, if you find that

1 something was misstated, and then there will be an
 2 address to which you can return it.
 3 THE WITNESS: I can fill names in I remember?
 4 MS. MEADEN: Sure.
 5 (Whereupon, at 12:52 p.m., the deposition was
 6 concluded.)
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1 CERTIFICATE OF OATH
23 THE STATE OF FLORIDA,)
45 COUNTY OF PALM BEACH.)
67 I, Jodi Harmon, Registered Professional
8 Reporter and Notary Public in and for the State of
9 Florida at Large, hereby certify that the foregoing
10 witness personally appeared before me and was first duly
11 sworn by me.
12 WITNESS MY HAND AND OFFICIAL SEAL, this
13 3rd day of July, 2003.14 Jodi Harmon, RMR, CRR
15 Notary Public, State of Florida
16 Commission Number: CC854931
17 Expires: July 22, 2003
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1 REPORTER'S DEPOSITION CERTIFICATE
23 THE STATE OF FLORIDA,)
4)
5 COUNTY OF PALM BEACH.)
67 I, Jodi Harmon, Court Reporter, certify that
8 the foregoing deposition was taken before me in this
9 cause at the time and place and in the presence of
10 counsel as shown herein; that the foregoing pages
11 contain a true and correct transcription of the
12 testimony of said witness.13 I further certify that I am neither attorney
14 for any party nor am I related to or employed by any
15 attorney or party connected with the action, nor am I
16 financially interested in the action.17 The foregoing certification of this transcript
18 does not apply to any reproduction of the same by any
19 means unless under the direct control and/or direction
20 of the certifying reporter.21 So certified, this 3rd day of
22 July, 2003.
2324 Jodi Harmon, RMR, CRR
25

In The Matter Of:

**AHERF v.
PRICEWATERHOUSECOOPERS**

THOMAS MCCOOL

October 28, 2003

LEGALINK MANHATTAN
420 Lexington Avenue - Suite 2108
New York, NY 10170
PH: 212-557-7400 / FAX: 212-692-9171

MCCOOL, THOMAS - Vol. I



<p>1 under this agreement.</p> <p>2 A. Again, if an event of default has occurred and 3 is continuing uncured, the bank may do the four 4 things enumerated here.</p> <p>5 Q. Can you tell me what -- 6 Is Provision 1 under 7.02(a)(1) that 7 the bank can ask the trustee to declare an 8 event of default with respect to the bonds?</p> <p>9 THE WITNESS: Yes. It says what it 10 says, notify the trustee.</p> <p>11 BY MR. TERUYA:</p> <p>12 Q. And would that cause the bonds to be 13 accelerated?</p> <p>14 A. According to the way 7.02(1) is written, yes.</p> <p>15 Q. And was another option that was available to 16 PNC for PNC itself to cause the obligated 17 group's obligations to become immediately due 18 and payable?</p> <p>19 A. One of our options was to notify the trustee of 20 such event of default, yes.</p> <p>21 Q. What were the remedies that you considered at 22 the time to be available to you in dealing with 23 Allegheny General Hospital obligated group's 24 issues at the time you were dealing with that 25 credit?</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	<p>Page 58</p> <p>1 options other than what's spelled out in this 2 letter of credit agreement.</p> <p>3 MS. HACKETT: At the time in 4 evaluating options. What time are you talking 5 about?</p> <p>6 MR. TERUYA: At the time you were 7 dealing with any problems or issues relating to 8 Allegheny General Hospital Obligated Group.</p> <p>9 THE WITNESS: I think I understand 10 where you're going with the question, and 11 that's why I wanted to be careful that we're 12 talking about options as opposed to per se 13 remedies.</p> <p>14 The document outlines in black and 15 white what various words mean and what 16 contractual relationship exists.</p> <p>17 To the extent, though, that this is a 18 living, breathing company entity on the one 19 hand with management and people involved, and 20 to the extent the bank's comprised of a 21 parallel universe in a sense, there are 22 numerous discussions, assessments, and options 23 explored, so that it's not ultimately reduced 24 to a single determination.</p> <p>25 It's a pretty broad approach we take MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>
<p>1 A. The document speaks for itself. That's our 2 outline.</p> <p>3 Q. Other than the remedies that are available 4 under 7.02, are there any other remedies that 5 you are aware of that PNC had available to it?</p> <p>6 A. I'm not sure how you define "remedies," per se. 7 I mean, there's remedies that are enumerated 8 and defined in contract. 9 Is that what you mean?</p> <p>10 Q. I mean other than remedies that are defined in 11 this contract, was there any other options that 12 PNC considered to be available to it in dealing 13 with any of the problems that you faced at 14 Allegheny General Hospital Obligated Group?</p> <p>15 A. Options are different than -- 16 MR. COGAN: Keep in mind, Item No. 4 17 here is pretty broad. 18 MR. TERUYA: Sure. 19 MR. COGAN: It's exercise, or cause 20 to be exercised, any and all such remedies as 21 it may have under this agreement or any other 22 document or at law or in equity. 23 MR. TERUYA: I'm just trying to see 24 if there's anything else you would have 25 considered at the time in evaluating your MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	<p>Page 59</p> <p>1 in trying to make the assessment of whether or 2 not there are other options available, 3 including time or extensions of time or some 4 ameliorative characteristic that we might want 5 to put in place to both save ourselves the loss 6 and save the company itself.</p> <p>7 BY MR. TERUYA: 8 Q. Do you recall whether at some point in time you 9 started dealing with issues relating to the AGH 10 Obligated Group?</p> <p>11 A. Yes. 12 Q. Do you recall approximately when that was? 13 A. Generally in dealing with the problems in the 14 AGH entity, I'd have to say it was probably 15 sometime in July of 1998. 16 Q. How about just in dealing with the AGH 17 Obligated Group in general? Was there some 18 earlier point in time you started dealing with 19 it? 20 A. No. 21 Q. You mentioned -- 22 We were talking about DVOG earlier. 23 Could you tell me when you first became 24 involved with issues at DVOG. 25 A. May of 1998. MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>

<p>1 Q. What was the event that triggered your 2 involvement with issues at DVOG in May of '98? 3 A. There was a meeting in Philadelphia, I don't 4 recall the exact date, at which the AHERF 5 management basically made a presentation to the 6 creditors, including PNC and MBIA, of what the 7 situation was and what they intended to do. 8 Q. And what was the situation as reported at that 9 time by AHERF management? 10 A. That AHERF management generally had devised a 11 scenario that they wanted to explain to us that 12 would involve basically, as I defined it, 13 basically orphaning the Philadelphia entity, 14 closing up the gates at Fortress Allegheny, and 15 leaving us to our fate. 16 I believe that's exactly how I put it 17 when I got home. 18 Q. When you say "orphaning" the Philadelphia 19 operations, can you explain what you mean by 20 that. 21 A. They meant to abandon them. 22 Q. Into bankruptcy? 23 A. Into whatever it took. In general terms, I 24 don't think they devised or determined what 25 process would be entailed, but the general MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 62	<p>1 the meeting and where it took place, and it was 2 actually not a bad lunch. 3 Beyond that, I don't recall. 4 Q. Just to clarify that last answer, do you have a 5 general recollection that some trustees were 6 present, as well? 7 A. Again, my memory could well be faulty. 8 Q. Sure. 9 A. But as I recall, there may have been a couple 10 of the trustees there, yes. 11 Q. Do you recall being told at that time who had 12 made that decision to, as you put it, abandon 13 the Philadelphia operations? 14 A. It was not attributed to any single individual, 15 no. 16 Q. Do you know if any discussion was made as to 17 whether the board of AHERF had considered that 18 decision? 19 A. Again, there was no attribution, as I recall, 20 to who determined that strategy. 21 Q. Do you recall how long that meeting lasted for, 22 that presentation? 23 A. Several hours, because it extended over lunch. 24 Q. Was there any catalyzing event that triggered 25 your involvement with issues at the AGH MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 64
<p>1 tenor of their approach was to abandon 2 Philadelphia to its fate, button up the gates 3 in western Pennsylvania, and hope that nobody 4 crossed the moat. 5 Q. So are you saying that the support and credit 6 from AHERF and its western operations would no 7 longer be extended to the Philadelphia 8 operations? 9 A. That was my understanding from that meeting, 10 yes. 11 Q. Do you recall which members of AHERF management 12 were present? 13 A. No, I don't. I believe Tony Sanzo and a number 14 of other people were there, a number of the 15 trustees were there; but I didn't take 16 attendance, and I don't recall exactly who was 17 there. 18 Q. So when you said AHERF management, you don't 19 mean simply management in terms of officers, 20 but you're also including trustees, some 21 trustees, as well? 22 A. My recollection is, and I could be wrong 23 because, as I said, I didn't take attendance at 24 the meeting, and I didn't keep an attendance 25 list. I have a general awareness of who was in MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 63	<p>1 Obligated Group in July of '98? 2 A. The determination basically that a bankruptcy 3 petition would be filed on behalf of the DVOG 4 and AHERF as the parent, and that the AGH 5 entity would not be involved in that. 6 Q. So were you ever in any position to evaluate -- 7 Actually, let me take one step back. 8 Did there ever come a time where you 9 evaluated your options under the AGH Obligated 10 Group letter of credit agreements in terms -- 11 A. Yes, certainly. 12 Q. When was that? 13 A. Likely it would have been in the same time 14 frame, early July '98. 15 Q. Was there any failure on the part of the AGH 16 Obligated Group to comply with any obligations 17 under the letter of credit agreement? 18 A. I don't recall whether there was any technical 19 obligation. 20 Q. Do you recall what options you considered with 21 respect to the Allegheny General Hospital 22 obligated group in terms of this loan 23 agreement? 24 A. In general terms, in early July we had 25 determined that no matter what strategy they MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 65

<p>1 sought to employ in the DVOG side of the 2 company structure, the Allegheny General 3 reimbursement agreement was going to be in 4 default; and so if the generalized plan that we 5 had discussed or had discussed with us by AHERF 6 management was that they would seek to most 7 quickly abandon the eastern operations and, 8 yet, continue to keep the western operations 9 viable, it seemed a bit short-sighted to me, 10 because under the scenario they outlined, the 11 AGH obligations would be in default.</p> <p>12 Q. So what particular options did you consider at 13 that point in time that PNC could take in 14 responding to what you perceived as a 15 forthcoming default by the AGH Obligated Group?</p> <p>16 A. Declaring the default and accelerating the debt 17 by causing a draw under the letter of credit.</p> <p>18 Q. Were there any other options that you were 19 considering at the time?</p> <p>20 A. There were numerous other options in the global 21 sense that we had been discussing not only with 22 the DVOG and AHERF, but because they had an 23 effect on the AGH operations, those were under 24 consideration, yes.</p> <p>25 Q. Could you tell me what those other options MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 66	Page 68
<p>1 were.</p> <p>2 A. Yes, given the liquidity position of the DVOG, 3 we devised really a term sheet that we had 4 offered to AHERF and its management that would 5 have basically come up with more liquidity for 6 them to meet their obligations in return for 7 which they would have agreed to pledge the 8 western assets to the generalized corporate 9 structure, all the obligations owed to both us 10 and MBIA.</p> <p>11 Q. That's with respect to DVOG?</p> <p>12 A. AHERF in a sense, the way we looked at it, was 13 more globally from a liquidity standpoint. In 14 a day-to-day standpoint, it doesn't matter so 15 much who has to make good on the obligation, 16 whether it's to a vendor or whether it's 17 payroll or whether it's any other liquidity 18 need.</p> <p>19 It was a sense that the company, as a 20 whole, needed liquidity in some amount; and 21 what we devised was a structure that would have 22 provided some liquidity to the company, but we 23 wanted a quid pro quo.</p> <p>24 We'd put up a liquidity; they had to 25 put up the assets, all of the assets. They MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 67	Page 69

<p>1 were considered at the time; one embodied in 2 the term sheet that was offered to AHERF, and 3 another was accelerating the AGH Obligated 4 Group letter of credit.</p> <p>5 Were there any other options that 6 came about as a result of that process that you 7 discussed that you can recall?</p> <p>8 A. I don't recall.</p> <p>9 MS. HACKETT: Can we take a break?</p> <p>10 MR. TERUYA: Sure. Why don't we take 11 a quick break.</p> <p>12 THE VIDEOGRAPHER: We're going off 13 the record. The time is 10:30.</p> <p>14 -----</p> <p>15 (There was a recess in the proceedings.)</p> <p>16 -----</p> <p>17 THE VIDEOGRAPHER: We are back on the 18 record. It is 10:46.</p> <p>19 BY MR. TERUYA:</p> <p>20 Q. I think when we left off we were talking about 21 some of the options that were being considered 22 prior to the bankruptcy by PNC, and you 23 mentioned accelerating the AGH Obligated Group 24 letter of credit and a term sheet that was 25 offered to AHERF, and I was wondering was any MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 70	<p>1 security agreement.</p> <p>2 Q. Is this an agreement between the AGH Obligated 3 Group and PNC?</p> <p>4 A. Yes.</p> <p>5 Q. So it's another letter of credit agreement that 6 was in place at the time between AGH and PNC?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know if this letter of credit agreement 9 was also irrevocable from PNC's perspective?</p> <p>10 A. That's my understanding.</p> <p>11 Q. And if you could just flip to Page 25 of this 12 agreement, do you see there's a Section 7.01, 13 default, that runs through to Page 27?</p> <p>14 A. Yes.</p> <p>15 Q. And does this section set forth all the 16 possible events of default under this letter of 17 credit agreement?</p> <p>18 A. Yes.</p> <p>19 Q. Looking at 7.01 B, in particular, is there in 20 this letter of credit agreement, like in the 21 last one, a provision that allows AGH Obligated 22 Group 30 days to try to cure any covenant 23 noncompliance?</p> <p>24 A. It looks basically like the same language 25 that's in the other one, yes.</p> MANHATTAN REPORTING CORP., A LEGALINK COMPANY	Page 72
<p>1 consideration ever given to accelerating the 2 DVOG letters of credit?</p> <p>3 A. I don't recall.</p> <p>4 Q. Am I correct that these options were being 5 considered --</p> <p>6 Actually, let me strike that last 7 question.</p> <p>8 Let me show you what's been 9 previously marked as -- we'll spend less time 10 on this document -- but what has been 11 previously marked as Exhibit 326 which, just 12 for the record, is the letter of credit, 13 reimbursement and security agreement, dated as 14 of January 29, 1993, between AGH and Pittsburgh 15 National Bank.</p> <p>16 -----</p> <p>17 (Exhibit No. 326 previously marked for 18 identification.)</p> <p>19 -----</p> <p>20 BY MR. TERUYA:</p> <p>21 Q. Let me ask you as you flip through it if you 22 recognize this document.</p> <p>23 A. Yes.</p> <p>24 Q. Can you tell me what you recognize it as.</p> <p>25 A. It's a letter of credit, reimbursement and MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 71	<p>1 Q. And I think you mentioned that you were aware 2 of no policy or practice at PNC with respect to 3 extending the 30-day cure period. Is that 4 right?</p> <p>5 A. That's correct.</p> <p>6 Q. Was that at least an option that PNC have 7 available to it, to extend the period within 8 which AGH Obligated Group would try to cure any 9 covenant noncompliance?</p> <p>10 A. It certainly was an option, yes.</p> <p>11 Q. And we earlier were discussing the various 12 options that you were considering before the 13 bankruptcy with respect to the AGH Obligated 14 Group.</p> <p>15 Were those options ones that you were 16 considering both under the last letter of 17 credit agreement, as well as under this letter 18 of credit agreement?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. You can set this document aside.</p> <p>21 In the '90s, were you involved in any 22 way with credit analysis of any AHERF entities?</p> <p>23 A. In the '90s?</p> <p>24 Q. In the '90s.</p> <p>25 A. Yes.</p> MANHATTAN REPORTING CORP., A LEGALINK COMPANY	Page 73

<p>1 Q. Did you participate in any valuation analyses 2 or oversee any valuation analyses of AHERF's 3 hospitals? 4 A. I'm sure I did over time, sure. 5 Q. Looking at this particular document, do you see 6 how there's a discussion on the second page of 7 it for enterprise valuation that shows various 8 publicly traded acute care entities and how 9 they're valued in the market? 10 A. Yes. 11 Q. Am I correct that essentially this document is 12 taking the prices of those entities and 13 dividing by the revenue to come up with an 14 average value-per-revenue ratio? 15 A. Yes. It's calculated on those four and then an 16 average drawn. 17 Q. And is that a methodology that you employed at 18 the time to do any valuations of AHERF 19 entities? 20 A. Did I employ? 21 Q. Yeah. Did you employ or oversee the valuations 22 using that method? 23 A. No. That wasn't a method I employed, no. 24 Q. What kind of valuations did you perform or 25 oversee the performance of? MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 178	Page 180
<p>1 A. In large part, I relied on what was being 2 offered for the enterprises. 3 Q. By potential buyers? 4 A. By potential third parties, yeah. 5 Q. Are you referring to the bids that were made 6 around the time of the bankruptcy by Vanguard 7 and Tenet? 8 A. Yes. 9 Q. Other than valuations by looking at those 10 potential bids, did you perform any other types 11 of valuations or oversee the performance of any 12 other types of valuations? 13 A. Of what entity? 14 Q. Of AHERF hospitals. 15 A. Of each individually or all of them 16 collectively or -- 17 Q. Either individually or grouped in any way. 18 A. We attempted in large part, as this does in its 19 essence, to try and figure out whether or not 20 the AGH entity, which we still believed to have 21 an actual value as opposed to an imaginary 22 value of the other entities, how that would 23 impact our carrying value. Those are the 24 analyses that I was doing. 25 Q. And what kinds of -- what methodology did you MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 179	Page 181

<p>1 A. Once we gave them the term sheet, yes.</p> <p>2 Q. Who did you have interactions with about the</p> <p>3 term sheet?</p> <p>4 A. Tony Sanzo, numerous other people at the</p> <p>5 meetings; but they were all focused primarily</p> <p>6 through Tony.</p> <p>7 Q. Do you recall ever having any meetings with</p> <p>8 AHERF representatives that included board</p> <p>9 members relating to the term sheet?</p> <p>10 A. Yes. In the days leading up to the actual</p> <p>11 bankruptcy filing, the week or so prior to</p> <p>12 that, I believe we had a number of meetings</p> <p>13 with AHERF management and a number of the</p> <p>14 trustees.</p> <p>15 Q. Do you remember which trustees came to those</p> <p>16 meetings?</p> <p>17 A. You know, I just don't remember which names. I</p> <p>18 can't remember if Ira Gumberg was there or --</p> <p>19 I really just don't remember.</p> <p>20 Q. Do you remember any discussions that you had</p> <p>21 with any AHERF trustees in particular by name?</p> <p>22 A. Again, I just don't recall who from the trustee</p> <p>23 side attended the meeting.</p> <p>24 Q. Let me step away from that particular meeting</p> <p>25 or set of meetings and just ask you generally.</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 182	Page 184
<p>1 Do you recall any particular AHERF trustees</p> <p>2 that you had interaction with during 1998?</p> <p>3 A. I think I just went through that. I can't</p> <p>4 recall the names of specific trustees that I</p> <p>5 met with on specific days. I just don't</p> <p>6 recall. I know they were trustees. I know</p> <p>7 they were there. I just don't remember their</p> <p>8 names.</p> <p>9 Q. In terms of the valuations that you did</p> <p>10 perform, do you know who assisted you in</p> <p>11 performing those valuations, either at PNC or</p> <p>12 advisors to PNC?</p> <p>13 A. Ones that I prepared? I prepared them.</p> <p>14 Q. Oh, you did them yourself?</p> <p>15 A. Sure.</p> <p>16 Q. And what kinds of --</p> <p>17 What methodology in particular did</p> <p>18 you use in valuing the AGH entities?</p> <p>19 A. Mostly multiple EBITDA and cash flow.</p> <p>20 Q. So some of those same types of methodologies</p> <p>21 that are in this document?</p> <p>22 A. Sure.</p> <p>23 Q. Is this a standard method --</p> <p>24 Are these standard methods for</p> <p>25 valuing entities?</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 183	Page 185

<p>1 category, yeah.</p> <p>2 Q. It went down?</p> <p>3 A. It was an attempt to cap the growth in the</p> <p>4 Medicare piece of the budget.</p> <p>5 Q. Were you involved in any discussions with AHERF</p> <p>6 about negotiating a waiver under the -- of</p> <p>7 certain reported noncompliance under the letter</p> <p>8 of credit agreements?</p> <p>9 A. With AGH?</p> <p>10 Q. With either AGH or with DVOG.</p> <p>11 A. I remember discussions with AGH about that, but</p> <p>12 I don't recall with DVOG.</p> <p>13 Q. Do you know if at or around the bankruptcy</p> <p>14 David Cook and Frank Taucher were still</p> <p>15 involved in negotiating with AHERF about</p> <p>16 various items relating to the letters of</p> <p>17 credit, including, for example, waivers?</p> <p>18 A. I don't recall.</p> <p>19 Q. More generally, do you know if David Cook and</p> <p>20 Frank Taucher were still in the picture in</p> <p>21 terms of dealing with AHERF at or around the</p> <p>22 time of the bankruptcy?</p> <p>23 A. I don't believe that they were generally, no.</p> <p>24 They may have been involved to the extent the</p> <p>25 AGH piece was still there, because I was</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 198	Page 200
<p>1 focused on the AHERF/DVOG piece.</p> <p>2 Q. Let me just quickly mark as Exhibit 2078</p> <p>3 a May 26, 1998, document, a letter from Mike</p> <p>4 Martin to David Cook with Bates numbers</p> <p>5 PNC 23702 through 709.</p> <p>6 -----</p> <p>7 (Deposition Exhibit No. 2078 marked</p> <p>8 for identification.)</p> <p>9 -----</p> <p>10 BY MR. TERUYA:</p> <p>11 Q. I don't think you're a recipient under this</p> <p>12 document, but all I was curious about is do you</p> <p>13 see that in this letter in the first sentence</p> <p>14 there's a reference to it was good seeing you,</p> <p>15 as well as Tom and Frank, on the 22nd; thanks</p> <p>16 for coming across the river; and then there's a</p> <p>17 discussion below about various items of</p> <p>18 noncompliance at the AHERF entities?</p> <p>19 A. Yes.</p> <p>20 Q. Do you see that on the second page, for</p> <p>21 example, there's a discussion there in a matrix</p> <p>22 of various items that are being negotiated with</p> <p>23 with respect to a, among other things, a waiver</p> <p>24 under the letter of credit agreement?</p> <p>25 A. Yes.</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 199	Page 201

<p>1 agreements with any of the AHERF entities in 2 May of '98 or early June of '98? 3 A. The bank did. 4 Q. Would it be Frank Taucher and David Cook's side 5 of the bank or your side? 6 A. The bank had the call, because the bank in the 7 collective sense makes the call. In a credit 8 of this size, no individual is going to be 9 given free rein to say aye or nay. 10 We're talking about a relationship 11 here that exceeded \$100 million. It would have 12 involved David; it would have involved Frank; 13 it would have involved me; it would have 14 involved Ted Paisley; and I'm sure at some 15 stage it would have involved Jim Rohr, Helen 16 Pudlin, and possibly even Tom O'Brien. 17 Q. What position did Helen Pudlin hold at this 18 time? 19 A. She's a chief counselor. 20 Q. How about Jim Rohr? 21 A. He's the president of the bank. 22 Q. Would the SAC committee have had any 23 involvement in making a decision to enter into 24 a waiver? 25 A. No. MANHATTAN REPORTING CORP., A LEGALINK COMPANY </p>	Page 202	<p>1 Q. In this instance with respect to this 2 particular credit given the size, was there no 3 senior loan committee involvement? 4 A. I think the same people who would have 5 generally been involved in discussions would 6 probably have populated that senior loan 7 committee, so maybe not formally but informally 8 they would have been part of the process. 9 Q. Okay. And you said the special asset, or the 10 SAC committee, reported to -- or was it a 11 reporting committee? 12 Who did it report to? 13 A. The chairman of the committee, in essence, 14 would have reported to the chief policy officer 15 at the bank. That would have been Ted Paisley. 16 Q. And what does SAC stand for? 17 A. Special assets committee. 18 It's like D-Day. D stands for day, 19 so it's day-day. So in SAC committee, it's the 20 Special Asset Committee committee. 21 Q. Got it. 22 Did you ever come to know of what 23 strategies AHERF was pursuing in the months 24 leading up to the bankruptcy in terms of its 25 operations of its hospitals? MANHATTAN REPORTING CORP., A LEGALINK COMPANY </p>	Page 204
<p>1 Q. How about a senior loan committee? 2 A. No. 3 Q. Just the individuals you mentioned? 4 A. The approval process in a sense, the SAC 5 committee doesn't have anything to do with 6 approval of waivers or amendments or anything 7 else. It's a reporting body that reflects on 8 the asset value in the sense of the balance 9 sheet items the bank holds in its loan 10 portfolio. 11 The approval process for waivers and 12 amendments is the same as for making a new 13 loan. In a sense, it's the same general 14 people, except when it's in workout, and it 15 comes through a slightly different avenue, 16 namely, it has to come down my street or 17 somebody like me. 18 But in this particular circumstance, 19 given the size of the credit and the nature of 20 the credit, it would have involved more than 21 just the normal sort of committee process. 22 Q. I think you said normally a senior loan 23 committee is involved in making credit 24 decisions. Is that right? 25 A. Yes. MANHATTAN REPORTING CORP., A LEGALINK COMPANY </p>	Page 203	<p>1 A. All we saw was the evidence of the outcome of 2 those strategies. 3 Q. So you had no understanding of whether AHERF 4 was pursuing a integrated delivery system 5 strategy? 6 A. I didn't, because I wasn't part of any of the 7 underwriting. 8 Q. Did you ever come to -- 9 Did you ever have any reason to study 10 what strategies AHERF had followed in the past 11 before you got involved? 12 A. Based on the evidence in front of me, I didn't 13 think it was a worthwhile exercise. 14 Q. So you focused on what was the situation as you 15 encountered it when you first got involved? 16 A. Yes. 17 Q. And I think we've already talked about the 18 attempted sale of AHERF's hospitals to 19 Vanguard, as well as sale/lease-back and 20 accounts receivable, financing transactions. 21 Do you recall at any point in time 22 coming to learn that AHERF had closed down 23 Mt. Sinai Hospital and had laid off about 24 several thousand of its employees in the 25 Delaware Valley region? MANHATTAN REPORTING CORP., A LEGALINK COMPANY </p>	Page 205

<p>1 A. No. You mean in terms of day-to-day 2 operations?</p> <p>3 Q. Overseeing its day-to-day operations and what 4 it was doing?</p> <p>5 A. No.</p> <p>6 Q. Did anyone at PNC, to your knowledge?</p> <p>7 A. Not -- except through the committee, to the 8 extent the committee was involved, the 9 unsecured committee.</p> <p>10 Q. Do you know if any representatives of the 11 committee or PNC observed what operations were 12 going on at AHERF after the bankruptcy?</p> <p>13 A. You're going to have to define "operations" for 14 me.</p> <p>15 Q. I just mean like in terms of how the hospitals 16 were doing and what kinds of management 17 decisions were being made to preserve value.</p> <p>18 A. You mean financial reports or cash flow reports 19 or --</p> <p>20 Q. No, I mean actual operations of the hospitals 21 like how the sale process was going, how, you 22 know, the doctor and patient situation that you 23 described was being handled, how the faculty 24 situation was being handled, et cetera.</p> <p>25 A. Did we oversee it?</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 234	Page 236
<p>1 Q. Are you aware of anyone at PNC --</p> <p>2 A. Are you talking about overseeing in terms of 3 managing? That's what an overseer is. What do 4 you mean?</p> <p>5 Q. Did anyone monitor, anyone at PNC or any 6 members of the creditors' committee, monitor 7 the operations of the AHERF hospitals?</p> <p>8 A. Generally we had regular meetings with our 9 advisors and accountants, we met with the 10 company's advisors and accountants, and we met 11 with the company on a regular basis.</p> <p>12 Q. Do you recall ever learning of any problems 13 that AHERF was facing in terms of attempting to 14 sell the eastern region hospitals after the 15 bankruptcy?</p> <p>16 A. Yeah, a whole series of them. It's almost 17 impossible to enumerate all of them.</p> <p>18 Q. Do you recall ever hearing that there was any 19 problem in terms of managing the due diligence 20 process with respect to the hospitals?</p> <p>21 A. That was one of them.</p> <p>22 Q. Do you recall ever hearing that --</p> <p>23 A. I actually caused a good bit of that, thank 24 you.</p> <p>25 Q. You how was that?</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 235	Page 237

<p>1 They could have had ten.</p> <p>2 BY MR. TERUYA:</p> <p>3 Q. They just weren't handling the process well?</p> <p>4 A. I didn't think so.</p> <p>5 Q. Did you or any other representatives of MBIA or</p> <p>6 the committee ever take any steps to intervene</p> <p>7 in terms of management's conduct in running the</p> <p>8 sale and due diligence process other than what</p> <p>9 you said about asking that a data room be</p> <p>10 created?</p> <p>11 A. I think we made suggestions and comments, but</p> <p>12 as creditors and ultimately even as members of</p> <p>13 the unsecured creditors' committee, this isn't</p> <p>14 a process where you can simply step in ala the</p> <p>15 European process, damn it, step in and just</p> <p>16 take over and do it yourselves.</p> <p>17 This arrangement and this legal</p> <p>18 system simply doesn't permit that to occur. We</p> <p>19 can have opinions; we can even express those</p> <p>20 opinions, but whether they have effect on the</p> <p>21 parties to whom we're expressing them, though,</p> <p>22 is a different story.</p> <p>23 Here, they apparently had little</p> <p>24 effect.</p> <p>25 Q. If an event of formal default had been declared</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 238	Page 240
<p>1 by PNC, could PNC then have forced management</p> <p>2 to make certain decisions with respect to the</p> <p>3 sale process?</p> <p>4 A. To the extent that it would have caused them to</p> <p>5 end up in the bankruptcy sooner, I don't think</p> <p>6 it would have had substantial effect, because</p> <p>7 they still would have been in place. They</p> <p>8 still would have been the same people.</p> <p>9 Q. After PNC declares an event of default in terms</p> <p>10 of the available remedies that PNC has, can PNC</p> <p>11 force management of a borrower to make certain</p> <p>12 decisions at that point?</p> <p>13 A. We can negotiate it for that.</p> <p>14 Q. I'm sorry?</p> <p>15 A. We can negotiate for that outcome; but in terms</p> <p>16 of forcing it as if forcing it will lead to its</p> <p>17 implementation, no, that's not how it works.</p> <p>18 Q. Can PNC ever force management to make certain</p> <p>19 decisions in terms of the rights it has</p> <p>20 available to it under the letters of credit</p> <p>21 agreement?</p> <p>22 A. We have made it a --</p> <p>23 We have done it in the past where we</p> <p>24 requested or required that for, say, new money</p> <p>25 advances that the company would alter</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 239	Page 241

<p>1 A. The bondholders were paid in full. They had 2 an LC. 3 Q. A letter of credit? 4 A. We, as the letter of credit holder, were not 5 paid in full, because we paid the bondholders; 6 but AGH did not pay us the full amount. 7 Q. Okay. So the total magnitude of the AGH 8 letters of credit, as we've seen, was far in 9 excess of \$13 million. Right? 10 A. Our share of that was roughly \$44 million. 11 Q. \$44 million. Okay. 12 A. Yes. 13 Q. And you, PNC, recovered the amount of the 14 letters of credit except for \$13 million to 15 \$14 million. Correct? 16 A. The way the deal was structured in the West 17 Penn transaction is we received two-thirds in 18 cash, and we received one-third in a very soft, 19 very subordinated note, which we value at zero. 20 Q. And what is the purpose of that note? 21 A. Actually, you'd have to ask Morgan. They 22 wanted it more than I did. 23 Q. Do you know if that note is supposed to -- 24 Well, let me rephrase that. Who 25 still owes PNC the \$13 million to \$14 million? MANHATTAN REPORTING CORP., A LEGALINK COMPANY </p>	<p>Page 242</p> <p>1 the form of bridge financing to assure the 2 liquidity of the overall system which is first 3 as to priority in payment of West 4 Penn/Allegheny Health System, which is the 5 combined entity. 6 The next is the refinanced MBIA 7 bonds, as well as additional amounts that were 8 issued in order to make a cash payment to PNC, 9 Sumitomo, and Morgan, all of whom received 10 roughly two-thirds of their obligation in cash 11 and the other one third in junior notes that 12 are subordinated first to the \$125 million in 13 Highmark debt and next to the \$300 million or 14 \$400 million of MBIA, slash, bondholder debt; 15 and then there's about \$43 million in total of 16 these what are called -- I forget. I think the 17 name we came up with actually were FRRCs, 18 floating rate restructuring certificates. 19 BY MR. TERUYA: 20 Q. So currently right now the sum of that is that 21 PNC is owed \$13 million to \$14 million from 22 West Penn and -- 23 A. West Penn/Allegheny Health System. 24 Q. And a note has been tendered or provided by 25 that system to PNC? MANHATTAN REPORTING CORP., A LEGALINK COMPANY </p> <p>Page 244</p>
<p>1 A. West Penn/Allegheny Health System. 2 Q. And what are the terms of that -- or what is 3 the nature of that obligation of West Penn to 4 PNC? 5 MS. HACKETT: What do you mean 6 "nature"? 7 MR. TERUYA: How is it that West 8 Penn -- 9 MR. COGAN: A subordinated note. 10 THE WITNESS: Yes. It's a very 11 subordinated note. 12 MR. TERUYA: So West Penn currently 13 doesn't have enough money to pay PNC. Is 14 that -- 15 MS. HACKETT: Currently? You mean as 16 of today? 17 MR. TERUYA: Well, at the time 18 whenever this occurred, whenever the bond 19 offering occurred and PNC ended up being owed 20 \$13 million to \$14 million. I'm just trying to 21 understand why is it -- 22 THE WITNESS: I would have to go 23 through the whole structure of the West 24 Penn/Allegheny merger, but in summary form, 25 Highmark advanced \$125 million to West Penn in MANHATTAN REPORTING CORP., A LEGALINK COMPANY </p>	<p>Page 243</p> <p>1 A. Right, with a maturity date of the year 2030. 2 Q. And that note is for \$13 million to 3 \$14 million? 4 A. Face amount. 5 MR. COGAN: That's what he said three 6 times, Kevin. 7 MR. TERUYA: All right. Well, I'm 8 just trying to make sure I understand it 9 MR. COGAN: It is pretty clear. 10 THE WITNESS: I think you're getting 11 it. 12 BY MR. TERUYA: 13 Q. Do you have any understanding of whether the 14 DVOG bondholders have been repaid in full? 15 A. They have. From PNC's -- the bondholders that 16 were backed up by PNC, the letter of credit has 17 been paid in full. 18 Q. Okay. Let me just mark as Exhibit 2079 a copy 19 of a February 11, 2003, transcript from SEC 20 versus Buettner, et al., litigation; and this 21 is the 30(b)(6) deposition of Thomas J. McCool. 22 ---- 23 (Deposition Exhibit No. 2079 marked 24 for identification.) 25 ---- MANHATTAN REPORTING CORP., A LEGALINK COMPANY </p> <p>Page 245</p>

<p>1 to privilege, the concern we have is we're 2 trying to understand what personal knowledge he 3 has and what he might testify about at trial if 4 he were ever called, and am I understanding you 5 correctly that by objecting on the grounds of 6 privilege that you and/or the committee aren't 7 going to call him as a witness to testify about 8 the topics that I asked about?</p> <p>9 MS. HACKETT: No.</p> <p>10 MR. COGAN: Now that's a silly 11 question. I mean, you're going to be preparing 12 witnesses, and are you suggesting that in the 13 preparation of those witnesses that if I 14 inquire, force you to invoke the privilege, 15 then I can then turn around and say, oh, by the 16 way, all the Coopers & Lybrand witnesses can't 17 testify?</p> <p>18 MR. TERUYA: No. I'm asking whether 19 he has personal knowledge of various topics 20 just to understand what he might testify about.</p> <p>21 MS. HACKETT: Let's go off the 22 record. I want to go off the record.</p> <p>23 THE VIDEOGRAPHER: We are going off 24 the record. It is 4:34.</p> <p>25 -----</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 274	<p>1 position. I'm not a deponent. My position is 2 very clear on the record.</p> <p>3 MR. TERUYA: You stand by your 4 position that you've already stated?</p> <p>5 MS. HACKETT: Yes, yes, yes. Okay?</p> <p>6 Okay. Thanks.</p> <p>7 MR. COGAN: Are you done?</p> <p>8 MR. TERUYA: With that qualifier, I 9 don't have any further questions on direct.</p> <p>10 -----</p> <p>11 EXAMINATION</p> <p>12 -----</p> <p>13 MR. COGAN: I just have a couple 14 questions for you, Mr. McCool.</p> <p>15 If you would, pull out Exhibit 2079, 16 which was your deposition before in the matter 17 of the SEC versus Mr. Buettner, et al.</p> <p>18 -----</p> <p>19 (There was a discussion off the record.)</p> <p>20 -----</p> <p>21 BY MR. COGAN:</p> <p>22 Q. I'm sorry, Mr. McCool. I didn't have the 23 microphone on, so let me ask you, do you have 24 Exhibit 2079 in front of you?</p> <p>25 A. I do.</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 276
<p>1 (There was a discussion off the record.)</p> <p>2 -----</p> <p>3 MR. TERUYA: We are back on the 4 record.</p> <p>5 THE VIDEOGRAPHER: It is 4:36.</p> <p>6 MR. TERUYA: I just wanted to state 7 on the record that at various points in time 8 you've asserted privilege objections to certain 9 questions I've asked about what Mr. McCool has 10 personal knowledge about, and we're trying to 11 obtain discovery about what he knows, what he 12 might testify about from his personal 13 knowledge; and to the extent we've been 14 precluded from doing that, we reserve our 15 rights to consider our options and to seek 16 appropriate relief at an appropriate time from 17 the Court, if needed.</p> <p>18 MS. HACKETT: Whatever that may be, 19 of course.</p> <p>20 MR. TERUYA: Okay.</p> <p>21 MS. HACKETT: Okay.</p> <p>22 MR. TERUYA: And your position is 23 that he cannot --</p> <p>24 MS. HACKETT: Please don't do that. 25 I don't want to be led by you into some</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 275	<p>1 Q. You recognize that, of course, as your 2 deposition in the matter of the SEC versus 3 Mr. Buettner, et al. Correct?</p> <p>4 A. Yes.</p> <p>5 Q. I would like to just direct your attention to 6 Page 136, which was a page that Mr. Teruya 7 directed you to.</p> <p>8 In particular, I'd like to focus your 9 attention on Lines 10 through 16 in which you 10 testified, the lack of accurate and timely 11 financial information led us to a course of 12 action in the intervening period that we 13 arguably wouldn't have taken had we known that 14 the entities were in the condition that they 15 actually were in as opposed to what was 16 represented in the financial statements.</p> <p>17 See that?</p> <p>18 A. Yes.</p> <p>19 Q. And I take it from your earlier responses you 20 continue to believe that that is true and 21 accurate testimony?</p> <p>22 A. Yes.</p> <p>23 Q. Do you stand by that testimony?</p> <p>24 A. Yes.</p> <p>25 Q. And I take it that having accurate and timely</p> <p>MANHATTAN REPORTING CORP., A LEGALINK COMPANY</p>	Page 277

<p>1 financial statements is important for the bank 2 in its relationships with its creditors. Is 3 that correct? 4 A. Yes. 5 Q. When you have timely and accurate financial 6 information, that allows you to make more 7 informed decisions. Is that right? 8 A. Yes. 9 Q. And when you don't have timely and accurate 10 information, the decisions that you make may 11 not be, as we say, well informed. 12 A. Generally that's true, because they lack the 13 proper and sufficient information. 14 Q. And if you had had -- 15 If I understand this testimony, if 16 you had financial information that was more 17 accurate and was more timely, then you would 18 have been in a better position to assess the 19 various options that the bank may have had. Is 20 that right? 21 MR. TERUYA: Objection. 22 THE WITNESS: Generally, yes. 23 MR. COGAN: That's all. Thank you. 24 MR. TERUYA: Let me ask a couple of 25 questions just in follow-up. MANHATTAN REPORTING CORP., A LEGALINK COMPANY </p>	Page 278	Page 280
<p>1 ----- 2 RE-EXAMINATION 3 ----- 4 BY MR. TERUYA: 5 Q. Am I correct that you still stand by your view 6 that even if you had had different financial 7 information about the AHERF system, you don't 8 know what steps PNC or yourself would have 9 taken that would have been different? 10 A. No, I don't. 11 Q. And you don't know what the effects would have 12 been of any steps that PNC or you might have 13 taken that would have been different based on 14 receiving different financial information? 15 A. No, because we'd be speculating. As I said 16 here, it's really impossible to predict what 17 the outcome would have been, only that it would 18 have occurred sooner. 19 MR. TERUYA: I don't have any further 20 questions -- subject to the earlier qualifier, 21 I mean. 22 MS. HACKETT: Thank you. 23 THE VIDEOGRAPHER: With there being 24 no further questions, this deposition is 25 concluded. MANHATTAN REPORTING CORP., A LEGALINK COMPANY </p>	Page 279	Page 281

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1 COMMONWEALTH OF PENNSYLVANIA) E R R A T A
2 COUNTY OF ALLEGHENY) S H E E T

3 I, THOMAS McCOOL, have read the foregoing pages
4 of my deposition given on Wednesday, October 28,
5 2003, and wish to make the following, if any,
6 amendments, additions, deletions or corrections:
7 Page/Line Should Read Reason for Change
8
9
10
11
12
13
14
15
16
17
18

19 In all other respects, the transcript is true and
20 correct.

21 THOMAS McCOOL
22 Subscribed and sworn to before me this
23 _____ day of _____, 2003.

24 Notary Public
25 AKF Reference No. gd77905
MANHATTAN REPORTING CORP., A LEGALINK COMPANY

In The Matter Of:

***AHERF v.
PRICEWATERHOUSE COOPERS, LLP***

ROBERT MCNAIR
January 17, 2003

***MANHATTAN REPORTING CORP.
420 Lexington Avenue - Suite 2108
New York, NY 10170
PH: 212-557-7400 / FAX: 212-692-9171***

MCNAIR, ROBERT (1/17/2003)

Word Index included with this condensed transcript

1 was dealing on his own with the HSI people. 10:17:57
 2 Q. Is the technology that you reference, is that 10:18:01
 3 the 4G technology? 10:18:02
 4 A. Yes. That's correct. Which had originated 10:18:04
 5 at Graduate, but which had been sold off to QualMed as 10:18:07
 6 part of the deal in which Greater Atlantic was sold. 10:18:10
 7 Q. And under the revised transaction deal 10:18:14
 8 structure, was, essentially, the Graduate, former 10:18:19
 9 Graduate hospitals, were they going to merge into SDN? 10:18:25
 10 A. That's my recollection, yes. 10:18:30
 11 Q. And then I guess the hospital entity, 10:18:30
 12 Zurbrugg Memorial Hospital, was going to merge into 10:18:35
 13 Horizon Medical Corporation? 10:18:38
 14 A. That's correct. That's correct. 10:18:42
 15 Q. And was SDN also going to acquire various 10:18:42
 16 other former Graduate Health System entities? 10:18:43
 17 A. Yeah. I think it took over most, if not all, 10:18:46
 18 of those entities that were reflected on that 10:18:47
 19 organizational chart. I couldn't tell you with 10:18:50
 20 absolute precision that they were all there, but many 10:18:54
 21 of them were. 10:18:54
 22 Q. And were those acquisitions effectuated by a 10:18:54
 23 merger or were they more like a stock transaction? 10:18:55
 24 A. No. They kind of came along because we had 10:18:59
 25 taken over the entities which ultimately -- which 10:19:00

1 let's hope not. 10:20:01
 2 Q. I'm talking about little computer-generated 10:20:04
 3 footers, and let me find an example. 10:20:06
 4 A. Yeah. You'll see the DVR footers, which 10:20:09
 5 are -- identified the Delaware Valley region. 10:20:13
 6 Q. If you turn to Page PH 7386, which is behind 10:20:16
 7 Tab 5, or really it's right in front of Tab 6. 10:20:21
 8 A. Okay. Yes. 10:20:26
 9 Q. Do you see how it says RMM -- 10:20:35
 10 A. Yes. That's clearly me. That's correct. 10:20:37
 11 Q. So anywhere we see a footer like that, that 10:20:39
 12 means that you created that document? 10:20:41
 13 A. Presumptively, yeah. I mean, if you want to 10:20:42
 14 ask me about specific ones. I would assume nobody 10:20:46
 15 else would use that, but as I say, given what I've 10:20:47
 16 learned since then, I wouldn't put anything past 10:20:51
 17 anyone. 10:20:58
 18 Q. And at this time, were you assistant 10:21:00
 19 secretary of SDN? 10:21:02
 20 A. Yes, I was. 10:21:05
 21 Q. Do you recall when you first became assistant 10:21:06
 22 secretary of SDN? 10:21:08
 23 A. I can't say that with great certainty. I 10:21:11
 24 will tell you that SDN was the remnant of United 10:21:14
 25 hospitals. In fact, it was the old United hospitals 10:21:26

1 owned the stock. Over time, after the transactions 10:19:04
 2 were done, we merged many of them out of existence, as 10:19:05
 3 I recall, and kind of tried to clean up the 10:19:09
 4 organizational chart, but that was not done at that 10:19:12
 5 time. 10:19:14
 6 Q. Did you draft many of the documents in 10:19:15
 7 Exhibit No. 988? 10:19:18
 8 A. I did. 10:19:19
 9 Q. And did you -- to the extent certain 10:19:20
 10 documents in here were filed with governmental 10:19:24
 11 agencies, were you in charge of filing them? 10:19:25
 12 A. I prepared them for filing. They were 10:19:28
 13 actually filed, as I recall, by our senior paralegal 10:19:29
 14 from Pittsburgh, Kathleen Saunders, who actually flew 10:19:32
 15 in to Philadelphia one day and picked up the documents 10:19:36
 16 and took them to Pittsburgh and filed them. But they 10:19:40
 17 were prepared for filing by our office, yes. 10:19:40
 18 Q. I notice on certain documents that there's a 10:19:42
 19 little footer that says RMM? 10:19:44
 20 A. That would be me. 10:19:47
 21 Q. Anywhere we see that footer, does that mean 10:19:50
 22 that document was at least initially prepared by you? 10:19:52
 23 A. Probably. If you want to call my attention 10:19:54
 24 to specific ones. I wouldn't be surprised if somebody 10:19:56
 25 put my initials on something that I prepared, but 10:19:59

1 entity, which Mr. Abdelhak had not wanted to bring 10:21:26
 2 into the Allegheny system, so he had sort of told me 10:21:26
 3 back in the summer of '91 to, quote, make it go away, 10:21:26
 4 but not make it go away in the sense of having the 10:21:30
 5 corporation disappear. He just didn't want -- he 10:21:33
 6 wanted it to kind of be sitting out there, which it 10:21:34
 7 did. 10:21:37
 8 The SDN initials obviously stand for 10:21:37
 9 Sheriff, David and Nancy, who were the three directors. 10:21:41
 10 I cannot tell you with certainty when I became an 10:21:44
 11 assistant secretary, but, as best I recall, I was. 10:21:45
 12 Q. Was it before the GHS acquisition in '96? 10:21:50
 13 A. To the best of my recollection, yes. 10:21:53
 14 Q. Was Donald Kaye also one of the directors of 10:21:56
 15 SDN? 10:21:59
 16 A. As I recall, yes, he was. 10:22:00
 17 Q. And just to clarify, on PH 7414 -- 10:22:04
 18 A. Which tab? 10:22:08
 19 Q. Which is right in front of Tab 12. 10:22:09
 20 A. Yes. 10:22:18
 21 Q. Do you see there's a different kind of footer 10:22:18
 22 that says RMM:SSA? Do you know what that means? 10:22:20
 23 A. Yeah. What this means is, this was typed by 10:22:25
 24 Beth Boyer, who was Mr. Abdelhak's assistant, and it 10:22:28
 25 would have been something that I gave her to type, 10:22:32